

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION

BOYD GILMORE,

Plaintiff,

v.

CIVIL ACTION NO: 2:08-cv-326

THE HONORABLE JUDGE LOUIS H. BLOOM,
Kanawha County Circuit Court,
REBECCA BOSTIC, Kanawha County Adult
Probation Department, West Virginia
Board of Probation and Parole,

Huttonsville Correctional Center Defendants:

WILLIAM HAINES, Warden,
TERESA WAID, Deputy Warden,
DEBRA COTTRELL, Classification Director,
KENNETH AKINS, Case Manager and
Classification Committee Chair,
KAREN TETER, Records Department,

St. Mary's Correctional Center Defendants:

WILLIAM FOX, Warden,
MISTY ADAMS, Case Supervisor,
DAN KIMBLE, Original Classification Director,
ROBERT PARKER, Unit Manager,
RUSSELL MASTON, Records Supervisor,
KAROL PAYNE, Unit Manager and Later
Classification Director,
JOYCE BILLS, Institutional Parole Officer,

Mount Olive Correctional Complex Defendants:

DAVID BALLARD, Warden,
TOM SUMMERRELL, Case Supervisor and
Classification Committee Chair,
JANET PAYNE, Unit Manager,
LEE HARPER, Case Manager,
PAUL LYTTLE, Associate Warden of Programs,
DOROTHY KERR, Classification Chair,
LORI BURFORD, Records Supervisor,

Division of Corrections Defendants:

JIM RUBENSTEIN, Commissioner,
STEVE YARDLY, Deputy Commissioner,
CHARLENE SOTAK, Inmate Grievance Coordinator,

Correctional Medical Services Defendants at Mount Olive:
CHERYL SNYDER, Administrator of Mental Health,
CRISTY FLORES, MHU, Licensed Social Worker,
TIM CARPER, MHU, Licensed Social Worker,
CORRECTIONAL MEDICAL SERVICES,
also known as CMS Corporation,
Custodian of Records for Medical and
Mental Health Unit Records, and

WEST VIRGINIA PAROLE BOARD,

Defendants.

MEMORANDUM OPINION AND ORDER

This action was previously referred to Mary E. Stanley, United States Magistrate Judge, who has submitted her Proposed Findings and Recommendation ("PF&R") pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B).

The court has reviewed the PF&R entered by the magistrate judge on November 7, 2008. The magistrate judge recommends, in part, that the court order that:

1. The motion to dismiss filed by the Honorable Louis H. Bloom be denied as moot; and
2. The renewed motion to dismiss filed by the Honorable Louis H. Bloom be granted on the basis of absolute judicial immunity inasmuch as all of the plaintiff's

allegations against Judge Bloom arise out of the exercise of his duties and authority as the judge of the Circuit Court of Kanawha County who presided over the plaintiff's criminal case.

On November 19, 2008, the plaintiff objected, and Judge Bloom responded to the plaintiff's objections on December 2, 2008. The arguments made by the plaintiff in his objections are the same as those presented to the magistrate judge upon consideration of the motions to dismiss and were aptly addressed by the magistrate judge in her PF&R. Consequently, Judge Bloom should be dismissed from this action on the basis of absolute judicial immunity.

Accordingly, the court adopts the magistrate judge's recommended disposition of this case with respect to Judge Bloom, and it is ORDERED that:

1. The portion of the PF&R concerning Judge Bloom's motions to dismiss be, and it hereby is, adopted by the court;
2. The motion to dismiss filed by Judge Bloom be, and it hereby is, denied as moot;
3. The renewed motion to dismiss filed by Judge Bloom be, and it hereby is, granted;

4. All claims against Judge Bloom be, and they hereby are,
dismissed.

The Clerk is directed to forward copies of this written
opinion and order to all counsel of record and the United States
Magistrate Judge.

DATED: December 17, 2008

A handwritten signature in black ink, appearing to read "John T. Copenhaver, Jr.", is written over a horizontal line.

John T. Copenhaver, Jr.
United States District Judge